

**BEFORE THE  
BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

**In the Matter of the Amended Accusation Against:**

**BUY RITE DRUGS;  
MICHAEL STRICKLAND CEO/PRESIDENT/DIRECTOR,**

**Respondent**

**Non-Resident Pharmacy Permit No. NRP 2087**

**Agency Case No. 6977**

**OAH No. 2020110678**

## DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Board of Pharmacy, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective at 5:00 p.m. on August 18, 2021.

It is so ORDERED on July 19, 2021.

BOARD OF PHARMACY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

By

A handwritten signature in black ink, appearing to read "Seung W. Oh". The signature is fluid and cursive, with the first name "Seung" and last name "Oh" being clearly legible.

Seung W. Oh, PharmD.  
Board President

1 ROB BONTA  
Attorney General of California  
2 KAREN R. DENVIR  
Supervising Deputy Attorney General  
3 JOSHUA B. EISENBERG  
Deputy Attorney General  
4 State Bar No. 279323  
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7 *Attorneys for Complainant*

8  
9 **BEFORE THE**  
**BOARD OF PHARMACY**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12  
13 In the Matter of the Amended Accusation  
Against:

14 **BUY-RITE DRUGS**  
15 **MICHAEL STRICKLAND,**  
**CEO/President/Director**  
16 401 Corsbie St. NW, P.O. Box 217  
Harstelle, AL 35640

17  
18 **Non-Resident Pharmacy Permit No. NRP**  
**2087**

19 Respondent.

Case No. 6977

OAH No. 2020110678

**STIPULATED SETTLEMENT AND**  
**DISCIPLINARY ORDER**

20  
21 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-  
22 entitled proceedings that the following matters are true:

23 **PARTIES**

24 1. Anne Sodergren (Complainant) is the Executive Officer of the Board of Pharmacy  
25 (Board). She brought this action solely in her official capacity and is represented in this matter by  
26 Rob Bonta, Attorney General of the State of California, by Joshua B. Eisenberg, Deputy Attorney  
27 General.

28 ///

2. Respondent Buy-Rite Drugs (Respondent) is represented in this proceeding by attorney Armond Marcarian, whose address is: 21650 Oxnard Street, Suite 1980, Woodland Hills, CA 91367-7853

3. On or about March 1, 2019, the Board issued Non-Resident Pharmacy Permit No. NRP 2087 to Buy-Rite Drugs (Respondent). The Non-Resident Pharmacy Permit was in full force and effect at all times relevant to the charges brought in Amended Accusation No. 6977, and expired on March 1, 2021.

### **JURISDICTION**

4. Accusation No. 6977 was filed before the Board on September 11, 2020. The Accusation and all other statutorily required documents were properly served on Respondent on September 16, 2020. Respondent timely filed its Notice of Defense contesting the Accusation. Amended Accusation No. 6977 was filed before the Board on May 17, 2021, and is currently pending against Respondent.

5. A copy of Amended Accusation No. 6977 is attached as exhibit A and incorporated herein by reference.

### **ADVISEMENT AND WAIVERS**

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Amended Accusation No. 6977. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of its legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to confront and cross-examine the witnesses against them; the right to present evidence and to testify on its own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

1 **CULPABILITY**

2 9. Respondent understands and agrees that the charges and allegations in Amended  
3 Accusation No. 6977, if proven at a hearing, constitute cause for imposing discipline upon its  
4 Non-Resident Pharmacy Permit.

5 10. For the purpose of resolving the Amended Accusation without the expense and  
6 uncertainty of further proceedings, Respondent agrees that, at a hearing, Complainant could  
7 establish a factual basis for the charges in the Amended Accusation, and that Respondent hereby  
8 gives up its right to contest those charges.

9 11. Respondent agrees that its Non-Resident Pharmacy Permit is subject to discipline and  
10 they agree to be bound by the Board's probationary terms as set forth in the Disciplinary Order  
11 below.

12 **CONTINGENCY**

13 12. This stipulation shall be subject to approval by the Board of Pharmacy. Respondent  
14 understands and agrees that counsel for Complainant and the staff of the Board of Pharmacy may  
15 communicate directly with the Board regarding this stipulation and settlement, without notice to  
16 or participation by Respondent or its counsel. By signing the stipulation, Respondent understands  
17 and agrees that they may not withdraw its agreement or seek to rescind the stipulation prior to the  
18 time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its  
19 Decision and Order, the Stipulated Settlement and Disciplinary Order shall be of no force or  
20 effect, except for this paragraph, it shall be inadmissible in any legal action between the parties,  
21 and the Board shall not be disqualified from further action by having considered this matter.

22 13. The parties understand and agree that Portable Document Format (PDF) and facsimile  
23 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile  
24 signatures thereto, shall have the same force and effect as the originals.

25 14. This Stipulated Settlement and Disciplinary Order is intended by the parties to be an  
26 integrated writing representing the complete, final, and exclusive embodiment of their agreement.  
27 It supersedes any and all prior or contemporaneous agreements, understandings, discussions,  
28 negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary

Order may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

15. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

**DISCIPLINARY ORDER**

IT IS HEREBY ORDERED that Non-Resident Pharmacy Permit No. NRP 2087 issued to Respondent Buy-Rite Drugs is revoked. However, the revocation is stayed and Respondent is placed on probation for five (5) years on the following terms and conditions:

1. Definition: Respondent

For the purposes of these terms and conditions, “respondent” shall refer to Buy-Rite Drugs. All terms and conditions stated herein shall bind and be applicable to the licensed premises and to all owners, managers, officers, administrators, members, directors, trustees, associates, or partners thereof. For purposes of compliance with any term or condition, any report, submission, filing, payment, or appearance required to be made by respondent to or before the board or its designee shall be made by an owner or executive officer with authority to act on behalf of and legally bind the licensed entity.

2. Obey All Laws

Respondent shall obey all state and federal laws and regulations.

Respondent shall report any of the following occurrences to the board, in writing, within seventy-two (72) hours of such occurrence:

- an arrest or issuance of a criminal complaint for violation of any provision of the Pharmacy Law, state and federal food and drug laws, or state and federal controlled substances laws;
- a plea of guilty, or nolo contendere, no contest, or similar, in any state or federal criminal proceeding to any criminal complaint, information or indictment;
- a conviction of any crime; or
- discipline, citation, or other administrative action filed by any state or federal agency

1 which involves respondent's Non-Resident Pharmacy Permit or which is related to the  
2 practice of pharmacy or the manufacturing, obtaining, handling or distributing, billing, or  
3 charging for any dangerous drug, and/or dangerous device or controlled substance.

4 Failure to timely report any such occurrence shall be considered a violation of probation.

5 3. Report to the Board

6 Respondent shall report to the board quarterly, on a schedule as directed by the board or its  
7 designee. The report shall be made either in person or in writing, as directed. Among other  
8 requirements, respondent shall state in each report under penalty of perjury whether there has  
9 been compliance with all the terms and conditions of probation. Respondent shall also provide  
10 full dispensing and shipping records to the Board for the quarterly period. Failure to submit  
11 timely reports in a form as directed shall be considered a violation of probation. Any period(s) of  
12 delinquency in submission of reports as directed may be added to the total period of probation.  
13 Moreover, if the final probation report is not made as directed, probation shall be automatically  
14 extended until such time as the final report is made and accepted by the board.

15 4. Interview with the Board

16 Upon receipt of reasonable prior notice, respondent shall appear in person for interviews  
17 with the board or its designee, at such intervals and locations as are determined by the board or its  
18 designee. Failure to appear for any scheduled interview without prior notification to board staff,  
19 or failure to appear for two (2) or more scheduled interviews with the board or its designee during  
20 the period of probation, shall be considered a violation of probation.

21 5. Cooperate with Board Staff

22 Respondent shall timely cooperate with the board's inspection program and with the board's  
23 monitoring and investigation of respondent's compliance with the terms and conditions of the  
24 probation, including but not limited to: timely responses to requests for information by board  
25 staff; timely compliance with directives from board staff regarding requirements of any term or  
26 condition of probation; and timely completion of documentation pertaining to a term or condition  
27 of probation. Failure to timely cooperate shall be considered a violation of probation.

28 ///

1           6.     Reimbursement of Board Costs

2           As a condition precedent to successful completion of probation, respondent shall pay to the  
3 board its costs of investigation and prosecution in the amount of \$7,500.

4           Respondent shall be permitted to pay these costs in a payment plan approved by the board  
5 or its designee, so long as full payment is completed no later than one (1) year prior to the end  
6 date of probation.

7           7.     Probation Monitoring Costs

8           Respondent shall pay any costs associated with probation monitoring as determined by the  
9 board each and every year of probation. Such costs shall be payable to the board on a schedule as  
10 directed by the board or its designee. Failure to pay such costs by the deadline(s) as directed shall  
11 be considered a violation of probation.

12          8.     Status of License

13          Respondent shall, at all times while on probation, maintain a current Non-Resident  
14 Pharmacy Permit with the board. Failure to maintain current licensure shall be considered a  
15 violation of probation.

16          If respondent's license expires or is cancelled by operation of law or otherwise at any time  
17 during the period of probation, including any extensions thereof or otherwise, upon renewal or  
18 reapplication respondent's license shall be subject to all terms and conditions of this probation not  
19 previously satisfied.

20          9.     License Surrender While on Probation

21          Following the effective date of this decision, should respondent wish to discontinue  
22 business, respondent may tender the premises license to the board for surrender. The board or its  
23 designee shall have the discretion whether to grant the request for surrender or take any other  
24 action it deems appropriate and reasonable. Upon formal acceptance of the surrender of the  
25 license, respondent will no longer be subject to the terms and conditions of probation.

26          Respondent may not apply for any new license from the board for three (3) years from the  
27 effective date of the surrender. Respondent shall meet all requirements applicable to the license  
28 sought as of the date the application for that license is submitted to the board.



Respondent further stipulates that it shall reimburse the board for its costs of investigation and prosecution prior to the acceptance of the surrender.

Upon acceptance of the surrender, respondent shall relinquish the premises wall and renewal license to the board within ten (10) days of notification by the board that the surrender is accepted. Respondent shall further submit a completed Discontinuance of Business form according to board guidelines and shall notify the board of the records inventory transfer within five (5) days. Respondent shall further arrange for the transfer of all records of acquisition and disposition of dangerous drugs and/or devices to premises licensed and approved by the board.

Respondent shall also, by the effective date of this decision, arrange for the continuation of care for ongoing patients of the pharmacy by, at minimum, providing a written notice to ongoing patients that specifies the anticipated closing date of the pharmacy and that identifies one or more area pharmacies capable of taking up the patients' care, and by cooperating as may be necessary in the transfer of records or prescriptions for ongoing patients. Within five days of its provision to the pharmacy's ongoing patients, Respondent shall provide a copy of the written notice to the board. For the purposes of this provision, "ongoing patients" means those patients for whom the pharmacy has on file a prescription with one or more refills outstanding, or for whom the pharmacy has filled a prescription within the preceding sixty (60) days.

Respondent may not apply for any new license from the board for three (3) years from the effective date of the surrender. Respondent shall meet all requirements applicable to the license sought as of the date the application for that license is submitted to the board.

Respondent further stipulates that it shall reimburse the board for its costs of investigation and prosecution prior to the acceptance of the surrender.

#### 10. Sale or Discontinuance of Business

During the period of probation, should respondent sell, trade or transfer all or part of the ownership of the licensed entity, discontinue doing business under the license issued to respondent, or should practice at that location be assumed by another full or partial owner, person, firm, business, or entity, under the same or a different premises license number, the board or its designee shall have the sole discretion to determine whether to exercise continuing

jurisdiction over the licensed location, under the current or new premises license number, and/or carry the remaining period of probation forward to be applicable to the current or new premises license number of the new owner.

#### 11. Notice to Employees

Respondent shall, upon or before the effective date of this decision, ensure that all employees involved in permit operations are made aware of all the terms and conditions of probation, either by posting a notice of the terms and conditions, circulating such notice, or both. If the notice required by this provision is posted, it shall be posted in a prominent place and shall remain posted throughout the probation period. Respondent shall ensure that any employees hired or used after the effective date of this decision are made aware of the terms and conditions of probation by posting a notice, circulating a notice, or both. Additionally, respondent shall submit written notification to the board, within fifteen (15) days of the effective date of this decision, that this term has been satisfied. Failure to timely provide such notification to employees, or to timely submit such notification to the board shall be considered a violation of probation.

"Employees" as used in this provision includes all full-time, part-time, volunteer, temporary and relief employees and independent contractors employed or hired at any time during probation.

#### 12. Owners and Officers: Knowledge of the Law

Respondent shall provide, within thirty (30) days after the effective date of this decision, signed and dated statements from its owners, including any owner or holder of ten percent (10%) or more of the interest in respondent or respondent's stock, and all of its officer, stating under penalty of perjury that said individuals have read and are familiar with state and federal laws and regulations governing the practice of pharmacy. The failure to timely provide said statements under penalty of perjury shall be considered a violation of probation.

#### 13. Premises Open for Business

Respondent shall remain open and engaged in its ordinary business as a Non-Resident Pharmacy in California for a minimum of 120 hours per calendar month. Any month during which this minimum is not met shall toll the period of probation, i.e., the period of probation shall

1 be extended by one month for each month during with this minimum is not met. During any such  
2 period of tolling of probation, respondent must nonetheless comply with all terms and conditions  
3 of probation, unless respondent is informed otherwise in writing by the board or its designee. If  
4 respondent is not open and engaged in its ordinary business as a Non-Resident Pharmacy for a  
5 minimum of 120 hours in any calendar month, for any reason (including vacation), respondent  
6 shall notify the board in writing within ten (10) days of the conclusion of that calendar month.  
7 This notification shall include at minimum all of the following: the date(s) and hours respondent  
8 was open; the reason(s) for the interruption or why business was not conducted; and the  
9 anticipated date(s) on which respondent will resume business as required. Respondent shall  
10 further notify the board in writing with ten (10) days following the next calendar month during  
11 which respondent is open and engaged in its ordinary business as a [insert license type] in  
12 California for a minimum of 120 hours. Any failure to timely provide such notification(s) shall  
13 be considered a violation of probation.

#### 14 14. Posted Notice of Probation

15 Respondent shall prominently post a probation notice provided by the board or its designee  
16 in a place conspicuous to and readable by the public within two (2) days of receipt thereof from  
17 the board or its designee. Failure to timely post such notice, or to maintain the posting during the  
18 entire period of probation, shall be considered a violation of probation.

19 Respondent shall not, directly or indirectly, engage in any conduct or make any statement  
20 which is intended to mislead or is likely to have the effect of misleading any patient, customer,  
21 member of the public, or other person(s) as to the nature of and reason for the probation of the  
22 licensed entity.

#### 23 15. Violation of Probation

24 If a respondent has not complied with any term or condition of probation, the board shall  
25 have continuing jurisdiction over respondent, and probation shall be automatically extended, until  
26 all terms and conditions have been satisfied or the board has taken other action as deemed  
27 appropriate to treat the failure to comply as a violation of probation, to terminate probation, and  
28 to impose the penalty that was stayed.

1 If respondent violates probation in any respect, the board, after giving respondent notice  
2 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that  
3 was stayed. If a petition to revoke probation or an accusation is filed against respondent during  
4 probation, the board shall have continuing jurisdiction and the period of probation shall be  
5 automatically extended until the petition to revoke probation or accusation is heard and decided.

6 16. Completion of Probation

7 Upon written notice by the board or its designee indicating successful completion of  
8 probation, respondent's license will be fully restored.

9 17. No Additional Ownership or Management of Licensed Premises

10 Respondent shall not acquire any additional ownership, legal or beneficial interest in, nor  
11 serve as a manager, administrator, member, officer, director, associate, partner or any business,  
12 firm, partnership, or corporation currently or hereinafter licensed by the board except as approved  
13 by the board or its designee. Violations of this restriction shall be considered a violation of  
14 probation.

15 **ACCEPTANCE**

16 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully  
17 discussed it with my attorney, Armond Marcarian. I understand the stipulation and the effect it  
18 will have on my Non-Resident Pharmacy Permit. I enter into this Stipulated Settlement and  
19 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
20 Decision and Order of the Board of Pharmacy.

21  
22 DATED: \_\_\_\_\_

23 MICHAEL STRICKLAND,  
24 CEO/PRESIDENT/DIRECTOR  
25 BUY-RITE DRUGS  
26 Respondent  
27  
28

1 If respondent violates probation in any respect, the board, after giving respondent notice  
2 and an opportunity to be heard, may revoke probation and carry out the disciplinary order that  
3 was stayed. If a petition to revoke probation or an accusation is filed against respondent during  
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5 automatically extended until the petition to revoke probation or accusation is heard and decided.

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13 by the board or its designee. Violations of this restriction shall be considered a violation of  
14 probation.

15 **ACCEPTANCE**

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18 will have on my Non-Resident Pharmacy Permit. I enter into this Stipulated Settlement and  
19 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the  
20 Decision and Order of the Board of Pharmacy.

21  
22 DATED: 5/21/2021

  
MICHAEL STRICKLAND,  
CEO/PRESIDENT/DIRECTOR  
BUY-RITE DRUGS  
Respondent

1 I have read and fully discussed with Respondent Buy-Rite Drugs the terms and conditions  
2 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve  
3 its form and content.

4  
5 DATED: \_\_\_\_\_ ARMOND MARCARIAN  
6 *Attorney for Respondent*

7  
8 **ENDORSEMENT**

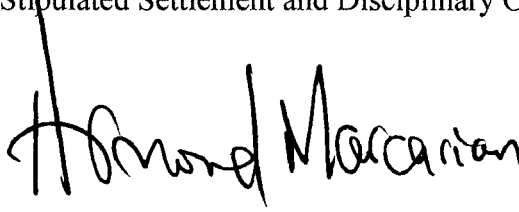
9 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
10 submitted for consideration by the Board of Pharmacy.

11 DATED: \_\_\_\_\_ Respectfully submitted,  
12  
13 ROB BONTA  
14 Attorney General of California  
15 KAREN R. DENVIR  
16 Supervising Deputy Attorney General  
17  
18 JOSHUA B. EISENBERG  
19 Deputy Attorney General  
20 *Attorneys for Complainant*

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1 I have read and fully discussed with Respondent Buy-Rite Drugs the terms and conditions  
2 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve  
3 its form and content.

4  
5 DATED: May 21, 2021



6 ARMOND MARCARIAN  
7 *Attorney for Respondent*

8 **ENDORSEMENT**

9 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
10 submitted for consideration by the Board of Pharmacy.

11 DATED: \_\_\_\_\_

Respectfully submitted,

12  
13 ROB BONTA  
14 Attorney General of California  
15 KAREN R. DENVIR  
16 Supervising Deputy Attorney General

17 JOSHUA B. EISENBERG  
18 Deputy Attorney General  
19 *Attorneys for Complainant*

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1 I have read and fully discussed with Respondent Buy-Rite Drugs the terms and conditions  
2 and other matters contained in the above Stipulated Settlement and Disciplinary Order. I approve  
3 its form and content.

4  
5 DATED: \_\_\_\_\_

ARMOND MARCARIAN  
*Attorney for Respondent*


6  
7  
8 **ENDORSEMENT**

9 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully  
10 submitted for consideration by the Board of Pharmacy.

11 DATED: 5/21/21

Respectfully submitted,

13 ROB BONTA  
Attorney General of California  
14 KAREN R. DENVIR  
Supervising Deputy Attorney General

15   
16 JOSHUA B. EISENBERG  
17 Deputy Attorney General  
*Attorneys for Complainant*

18 SA2020301573  
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**Exhibit A**

**Amended Accusation No. 6977**

1 ROB BONTA  
Attorney General of California  
2 KAREN R. DENVIR  
Supervising Deputy Attorney General  
3 JOSHUA B. EISENBERG  
Deputy Attorney General  
4 State Bar No. 279323  
1300 I Street, Suite 125  
5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 210-6115  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

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9 **BEFORE THE**  
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13 **BUY-RITE DRUGS**  
14 **MICHAEL STRICKLAND,**  
**CEO/ President/Director**  
15 401 Corsbie St. NW, P.O. Box 217  
Harstelle, AL 35640

**AMENDED ACCUSATION**

16  
17 **Non-Resident Pharmacy Permit No. NRP**  
**2087**

18 Respondent.  
19

20 **PARTIES**

21 1. Anne Sodergren (Complainant) brings this Amended Accusation solely in her official  
22 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

23 2. On or about March 1, 2019, the Board of Pharmacy issued Non-Resident Pharmacy  
24 Permit Number NRP 2087 to Buy-Rite Drugs (Respondent Buy-Rite). At all times relevant to the  
25 charges brought here, Michael Strickland was the CEO, President, 100% shareholder. The Non-  
26 Resident Pharmacy Permit was in full force and effect at all times relevant to the charges brought  
27 herein and will expire on March 1, 2021, unless renewed.

28 ///

**JURISDICTION**

3. This Amended Accusation is brought before the Board of Pharmacy (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

Section 4300 of the Code states in pertinent part:

(a) Every license issued may be suspended or revoked.

(b) The board shall discipline the holder of any license issued by the board, whose default has been entered or whose case has been heard by the board and found guilty, by any of the following methods:

(1) Suspending judgment.

(2) Placing him or her upon probation.

(3) Suspending his or her right to practice for a period not exceeding one year.

(4) Revoking his or her license.

(5) Taking any other action in relation to disciplining him or her as the board in its discretion may deem proper.

...

(e) The proceedings under this article shall be conducted in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, and the board shall have all the powers granted therein. The action shall be final, except that the propriety of the action is subject to review by the superior court pursuant to Section 1094.5 of the Code of Civil Procedure.

4. Section 4300.1 of the Code states:

The expiration, cancellation, forfeiture, or suspension of a board-issued license by operation of law or by order or decision of the board or a court of law, the placement of a license on a retired status, or the voluntary surrender of a license by a licensee shall not deprive the board of jurisdiction to commence or proceed with any investigation of, or action or disciplinary proceeding against, the licensee or to render a decision suspending or revoking the license.

5. Section 4301 of the Code states in pertinent part:

The board shall take action against any holder of a license who is guilty of unprofessional conduct or whose license has been issued by mistake. Unprofessional conduct shall include, but is not limited to, any of the following:

...

(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

...

(j) The violation of any of the statutes of this state, of any other state, or of the United States regulating controlled substances and dangerous drugs

...

(o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of or conspiring to violate any provision or term of this chapter or of the applicable federal and state laws and regulations governing pharmacy, including regulations established by the board or by any other state or federal regulatory agency.

### **STATUTORY PROVISIONS**

6. Section 4022 of the Code states:

“Dangerous drug” or “dangerous device” means any drug or device unsafe for self-use in humans or animals, and includes the following:

(a) Any drug that bears the legend: “Caution: federal law prohibits dispensing without prescription,” “Rx only,” or words of similar import.

(b) Any device that bears the statement: “Caution: federal law restricts this device to sale by or on the order of a \_\_\_\_\_,” “Rx only,” or words of similar import, the blank to be filled in with the designation of the practitioner licensed to use or order use of the device.

(c) Any other drug or device that by federal or state law can be lawfully dispensed only on prescription or furnished pursuant to Section 4006.

7. Section 4127.2, subdivision (a) of the Code states:

A nonresident pharmacy shall not compound sterile drug products for shipment into this state without a sterile compounding pharmacy license issued by the board pursuant to this section. The license shall be renewed annually and shall not be transferable.

8. Section 4307, subdivision (a) of the Code states:

Any person who has been denied a license or whose license has been revoked or is under suspension, or who has failed to renew his or her license while it was under suspension, or who has been a manager, administrator, owner member, officer, director, associate, or partner of any partnership, corporation, firm, or association whose application for a license has been denied or revoked, is under suspension or has been placed on probation, and while acting as the manger, administrator, owner, member, officer, director, associate, or partner had knowledge or knowingly participated in any conduct for which the license was denied, revoked, suspended, or placed on probation, shall be prohibited from serving as a manger,

1 administrator, owner, member, officer, director, associate, or partner of a licensee  
2 as follows:

3 (1) Where a probationary license is issued or where an existing license is  
4 placed on probation, this prohibition shall remain in effect for a period not to  
5 exceed five years.

6 (2) Where the license is denied or revoked, the prohibition shall continue  
7 until the license is issued or reinstated.

### 8 **COST RECOVERY**

9 9. Section 125.3 of the Code states, in pertinent part, that the Board may request the  
10 administrative law judge to direct a licensee found to have committed a violation or violations of  
11 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
12 enforcement of the case.

### 13 **CAUSE FOR DISCIPLINE**

14 (Unprofessional Conduct - Unlicensed Activity)

15 10. Respondent is subject to disciplinary action under Code section 4301, subdivisions  
16 (f), (j), and (o), in that Respondent, a nonresident pharmacy, compounded sterile drug products  
17 for shipment into California without a sterile compounding pharmacy license, in violation of  
18 4127.2, subdivision (a). The circumstances are as follows: on or about April 21, 2020, during an  
19 investigation, it was discovered that Respondent had compounded and distributed sterile drug  
20 products into California, activity which requires a nonresident sterile compounding pharmacy  
21 license. Records show this unlicensed activity took place from at least March, 2018 to at least  
22 March 28, 2020. On or about April 22, 2020, the Board issued to Order to Cease and Desist,  
23 pursuant to Business and Professions Code section 4316, subdivision (a), directing Respondent to  
24 cease and desist practicing any activity that requires a nonresident sterile compounding pharmacy  
25 license, including compounding and distributing sterile medication or nonsterile medication for  
26 non-patient-specific distribution within California.

### 27 **DISCIPLINE CONSIDERATIONS**

28 11. To determine the degree of discipline, if any, to be imposed on Respondent,  
Complainant alleges that on or about October 13, 2017, in a prior action, the Board issued

Respondent Citation Number CI 2017 77043 for unlicensed activity, in violation of Code section 4112. On or about November 7, 2017, Respondent paid the \$5,000 citation fine.

**OTHER MATTERS**

12. Pursuant to Code section 4307, if Non-Resident Pharmacy Permit Number NRP 2087 issued to Buy-Rite Drugs is suspended, revoked, or placed on probation, and Michael Strickland, while acting as the manager, administrator, owner, member, officer, director, associate, or partner, had knowledge of or knowing participated in any conduct for which Non-Resident Pharmacy Permit Number NRP 2087 was revoked, suspended, or placed on probation, Michael Strickland shall be prohibited from serving as a manager, administrator, owner, member, officer, director, associate, or partner of a licensee of the Board.

**PRAYER**

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Non-Resident Pharmacy Permit Number NRP 2087, issued to Buy-Rite Drugs;

2. Prohibiting Michael Strickland from serving as a manager, administrator, owner, member, officer, director, associate, partner, or in any other position with management or control of any Pharmacy licensee;

3. Ordering Buy-Rite Drugs to pay the Board of Pharmacy the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3; and,

4. Taking such other and further action as deemed necessary and proper.

DATED: 5/17/2021

Signature on File

ANNE SODERGREN  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

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